

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Patent Application of: Ian Charles Ogilvy

Serial No.: 10/585,134

Art Unit No.: Unassigned

Filing Date: June 29, 2006

Examiner: Unassigned

TITLE: COMMUNICATIONS DEVICE WITH CARD FACILITY

Petition Under 37 C.F.R. 1.47(b)

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Sir:

As the assignee of the entire right, title and interest in U.S. Patent Application No. 10/585,133, CardSoft, Inc. respectfully petitions pursuant to 37 C.F.R. § 1.47(b) to act on behalf of an inventor who cannot be found or reached after diligent effort. Pursuant to the requirements of 37 C.F.R. § 1.47(b), CardSoft submits the following documents in support of this petition:

- (i) A declaration under 37 C.F.R. § 1.63 and 1.64 executed by Mr. Donald Sweet, president of CardSoft, Inc.;
- (ii) A statement under 37 C.F.R. § 3.73(b) establishing the right of CardSoft, Inc. to act on behalf of named inventor Ian Charles Ogilvy;
- (iii) A declaration of relevant facts by Andrew Smyth of CardSoft, Inc. showing that inventor Ian Charles Ogilvy cannot be found or reached after diligent effort; and
- (iv) The petition fee set forth in 37 C.F.R. § 1.17.

In addition, CardSoft, Inc. states the following in support of this petition under 37 C.F.R. § 1.47(b):

1. The relationship of CardSoft, Inc. to Ian Charles Ogilvy is that CardSoft, Inc. is the sole assignee of the entire right, title and interest in U.S. Patent Application No. 10/585,133 naming Ian Charles Ogilvy as the sole inventor.

2. This petition is accompanied by proof that Ian Charles Ogilvy, the named inventor, cannot be found or reached after diligent effort.

3. The last known address of Ian Charles Ogilvy was:

Suite 306, 39 East Esplande
Manly, New South Wales,
Australia 2095

4. CardSoft, Inc. has made a prima facie case that the invention has been assigned to it, by virtue of the attached statement under 37 C.F.R. § 3.73 and copies of the relevant assignment documents.

5. The filing of this application is necessary to preserve the rights of the parties and to prevent irreparable damage.

I further declare that all statement made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code.

Respectfully submitted,



Donald R. McPhail Reg. No. 35,811

DUANE MORRIS LLP
1667 K Street, N.W., Suite 700
Washington, D.C. 20006
Telephone: (202) 776-7800
Facsimile: (202) 776-7801

Dated: May 14, 2007

COMBINED DECLARATION AND POWER OF ATTORNEY FOR UTILITY PATENT APPLICATION

As a below named Sweet, Donald E. I hereby declare:

that my residence, post office address and citizenship are as stated below next to my name;

that I verily believe that I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention which is the subject of an application entitled: COMMUNICATIONS DEVICES WITH CARD FACILITY; said invention being described and claimed [] in the attached specification [x] in the specification of application Serial No. 10/585,134 filed October 17, 2002; that I have reviewed and understand the content of said specification including the claims; that I do not know and do not believe the said invention was ever known or used in the United States before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said application; that said invention was not in public use or on sale in the United States more than one year prior to said application; that said invention has not been patented or made the subject of an inventor's certificate issued before the date of said application in any country foreign to the United States on an application filed by me or my legal representatives or assigns more than twelve months prior to said application; that I acknowledge my duty to disclose information of which I am aware which is material to patentability as defined in 37 CFR 1.56; and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States prior to said application by me or my legal representatives or assigns, except as follows:

COUNTRY/INTERNATIONAL:	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 35 U.S.C. 119/36
WIPO	PCT/AU01/0435	04/17/2001	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
AU	PR 2608	04/17/2000	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application listed below:

I hereby appoint Donald R. McPhail, Reg. No. 35,811 to prosecute said application and to transact all business in the Patent and Trademark Office connected therewith and to file, prosecute and transact all business in connection with international applications directed to said invention:

Address all correspondence to: Duane Norris LLP
1667 K Street, N.W., Suite 700
Washington, DC 20006

Direct all telephone calls to (202) 776-7800

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Donald E. Sweet, President, Cardsoft, Inc.
FULL NAME OF INVENTOR

X  4/22/07
SIGNATURE DATE

Suite 104, One Waters Park Drive, San Mateo, CA 94403
RESIDENCE

US
CITIZENSHIP

Same as above
POST OFFICE ADDRESS

DMZ1114591.1

PTO/SB/98 (04-07)

Approved for use through 09/30/2007, OMB 0651-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)Applicant/Patent Owner: CardSoft, Inc.Application No./Patent No.: 10/585,134 Filed/Issue Date: October 17, 2002Entitled: Communications Device with Card Facility

CardSoft, Inc. a Corporation
 (Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest
 (The extent (by percentage) of its ownership interest is _____ %)

In the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: Ian Charles Ogilvy To: CardSoft International PTY Limited
 The document was recorded in the United States Patent and Trademark Office at
 Reel 011006, Frame 0231, or for which a copy thereof is attached.

2. From: CardSoft International PTY Limited To: CardSoft, Inc.
 The document was recorded in the United States Patent and Trademark Office at
 Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
 The document was recorded in the United States Patent and Trademark Office at
 Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☒ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Donald E. Sweet
 Signature

Donald E. Sweet
 Printed or Typed Name

President, CardSoft, Inc.
 Title

4/22/07
 Date
650-367-6237
 Telephone Number

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Patent Application of:

Ian Charles Ogilvy

Confirmation No.: 3817

Serial No.: 10/585,134

Art Unit No.: Unknown

Filing Date: October 17, 2002

Examiner: Unknown

TITLE: COMMUNICATIONS DEVICE WITH CARD FACILITY

DECLARATION OF RELEVANT FACTS

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

I, Andrew Smyth, hereby declare:

1. Ian Charles Ogilvy is the sole named inventor in the above-subject patent application.
2. Ian Charles Ogilvy is no longer an employee, officer or director of CardSoft Inc. or its predecessor CardSoft International.
3. The last known address of Ian Charles Ogilvy is:

Suite 306, 39 East Esplande
Manly, New South Wales, Australia 2095
4. I have firsthand knowledge of the following facts relating to the efforts to contact Ian Charles Ogilvy.
5. Neither I, nor anyone else at CardSoft, has had any contact with Ian Charles Ogilvy since 2001.
6. When Mr. Ogilvy left CardSoft in 2001, he left no forwarding address. We had heard through third parties that Mr. Ogilvy was working with a company called Keycorp in Australia; however, he never acknowledged any communications sent to him at Keycorp. Sometime later,



possibly in 2003, we heard that he left Keycorp. There have been no confirmed sightings of or contact with Mr. Ogilvy since that time

7. On at least 4 occasions since 2001, we have written to all shareholders of CardSoft including Mr. Ogilvy. In the absence of any correct or forwarding address, we had resorted to sending any communication for Ian Ogilvy care of his aged mother, who lived at Coffs Harbour, a small town in northern New South Wales, Australia. In each communication, we invited Mr. Ogilvy to confirm/update their contact details. We never received any response from Ian Charles Ogilvy or his mother. As such we do not know whether the Coffs Harbour address is still valid, or even if Mrs. Ogilvy is still alive (I met her in 2000, and she must have been late 70s at that time).

8. I further declare that all statement made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code.

Respectfully submitted,


Andrew Smyth

Date: April 21, 2007



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

OCTOBER 06, 2000

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PTAS



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LADAS & PARRY
THOMAS F. PETERSON
224 SOUTH MICHIGAN AVENUE
CHICAGO, IL 60604

19021-2053

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 07/24/2000

REEL/FRAME: 011006/0237
NUMBER OF PAGES: 9

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

OGILVY, IAN CHARLES

DOC DATE: 12/20/1999

ASSIGNEE:

CARDSOFT INTERNATIONAL PTY LIMITED
SUITE 306, 39 EAST ESPLANADE
MANLY NSW, AUSTRALIA 2095

SERIAL NUMBER: 09297991

PATENT NUMBER:

FILING DATE: 07/22/1999

ISSUE DATE:

SERIAL NUMBER: 09381143

PATENT NUMBER:

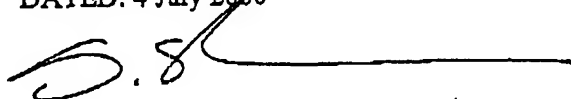
FILING DATE: 10/22/1999

ISSUE DATE:

STEVEN POST, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

We, GRIFFITH HACK, Patent Attorneys, of 168 Walker Street, North Sydney, in the State of New South Wales 2060, Australia, hereby certify that this is a true and correct copy of the original Deed of Assignment dated 20 December 1999 between IAN CHARLES OGILVY and CARDSOFT INTERNATIONAL PTY LTD.

DATED: 4 July 2000



IAN CHARLES OGILVY

CARDSOFT INTERNATIONAL PTY LIMITED

DEED OF ASSIGNMENT



GRIFFITH HACK
LAWYERS

Sydney Office
168 Walker Street North Sydney
NSW 2060 Australia
GPO Box 4164 Sydney
NSW 2001 Australia
Telephone +61 2 9957 5944
Facsimile +61 2 9957 6288
ghsyd@griffithhack.com.au

THIS DEED is made on 20th day of December 1999.

BETWEEN: IAN CHARLES OGILVY of Level 3, 39 East Esplanade, Manly, NSW 2095
("Ogilvy")

AND: CARDSOFT INTERNATIONAL PTY LIMITED, ACN 075 945 265 of Suite
306, 39 East Esplanade MANLY NSW 2095 ("CIPL")

BACKGROUND

- A. Ogilvy has applied for the grant of Letters Patent for the inventions which are the subject of the applications in Schedule 1.
- B. Ogilvy has agreed with CIPL to assign to CIPL all right, title and interest in the Patents including all associated Intellectual Property Rights.

IT IS AGREED

1 INTERPRETATION

1.1 Definitions

In this Agreement and unless the context requires otherwise, the following terms and their derivatives have the meanings set out below.

Term	Meaning
"Deed"	This document together with all schedules and annexures to it and any variation and replacement of any of them.
"Intellectual Property Right"	Any intellectual property right, including but not limited to: (a) patents, copyright, rights under the Circuit Layout Act 1989 (Cth) (and equivalent rights outside Australia in circuit layouts), registered designs, trademarks and any right to have any information kept confidential; and (b) any licence or other application or right to use, or grant the use of or apply for registration of, any of the rights referred to in paragraph (a).
"Patents"	The patent applications in Schedule 1 including divisional applications or other patents derived from the patent applications.

1.2 Construction

In this Deed, unless the contrary intention appears:

- (a) the singular includes the plural and vice versa;

- (b) a reference to any thing or amount is a reference to the whole and each part of it.

1.3 Headings

Headings are for convenience only and do not affect the interpretation of this Deed.

2 ASSIGNMENT

- 2.1 Ogilvy hereby assigns to CIPL all his Intellectual Property Rights in the Patents.
- 2.2 Ogilvy undertakes at the expense of CIPL to execute all documents necessary or desirable as requested by CIPL to assign the rights referred to in clause 2.1.
- 2.3 Ogilvy hereby relinquishes all and any claims he may have now or in the future in relation to the Patents.

3 WARRANTIES AND INDEMNITIES

3.1 Ogilvy warrants to CIPL that:

- (a) so far as he is aware the Intellectual Property Rights assigned pursuant to clause 2.1 do not infringe the Intellectual Property Rights of any third party; and

Other than prior assignment to CIPL,
(b) he has not assigned nor dealt with in any way his Intellectual Property Rights in the Patents which would prevent him from assigning these rights to CIPL.


- 3.2 Ogilvy agrees to indemnify and hold harmless CIPL against any and all losses, costs, expenses, demands or liability, whether direct or indirect, arising out of any claim by a third party alleging that his Intellectual Property Rights in the Patents infringe the Intellectual Property Rights of any third party.

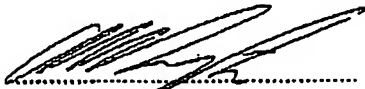
4 MISCELLANEOUS

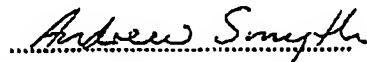
- 4.1 A single or partial exercise or waiver of a right relating to this Deed will not prevent any other exercise of that right or the exercise of any other right. A party will not be liable for any loss, cost or expense of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.
- 4.2 Each provision of this Deed is severable from the others and no severance of a provision will affect any other provision.
- 4.3 This Deed is governed by the laws of New South Wales and each party agrees that any proceedings arising out of this Deed must be commenced in New South Wales.

EXECUTIONExecuted as a **DEED**.

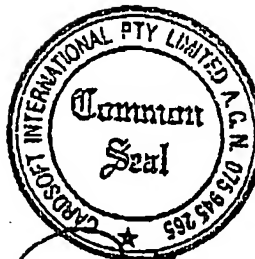
Signed, sealed and delivered)
IAN CHARLES OGILVY)
in the presence of)

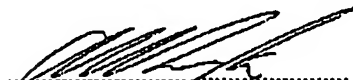

.....
Ian Charles Ogilvy



.....
Signature of Witness

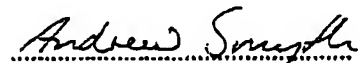

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Name of Witness (print)

The common seal of)
CARDSOFT INTERNATIONAL)
PTY LIMITED)
was affixed to this document)
in the presence of)




.....
Signature of secretary


.....
Signature of director


.....
Name of secretary (print)


.....
Name of director (print)

SCHEDULE 1:
ALL PATENT APPLICATIONS IN THE NAME OF
IAN CHARLES OGILVY

Title	Cardsoft Ref	Our Ref	Application No.	Country	Application Date	Status
A System and Method for the Provision of Information within a Predetermined Locality	Provision of Information	P33286	39116/99	Australia	08/07/99	Response Due to 1st OL 22/01/00.
Improved Apparatus for Remote Payment Transactions	Remote Payment Transactions	P30814	39161/99	Australia	12/07/99	Response Due to 1st OL 22/01/00.
Bankcard or Note with Display	Bankcard or Note with Display	P30811	39160/99	Australia	12/07/99	Response Due to 1st OL 20/01/00.
Remote Control of Microprocessor Device Transactions Processing	Dual Interface	P34516	49349/97	Australian National Phase of PCT/AU97/00777	12/11/97	Exams Due 23/12/99.
Remote Control of Microprocessor Device Transactions Processing	Dual Interface	FP10984	9911089.2	UK National Phase of PCT/AU97/00777	12/11/97	Pending
Remote Control of Microprocessor Device Transactions Processing	Dual Interface	FP10983	09/297991	US National Phase of PCT/AU97/00777	12/11/97	Pending
Method and Apparatus for Controlling Communication	Cardscript	P35481	66033/98	Australian National Phase of PCT/AU98/00173	16/03/98	Exams due 27/04/2000

Client: ian@ogilvy.com.au Ogilvy Patent Schedule 1.doc

Method and Apparatus for Controlling Communication	Cardscript	FP11419	09/381143	US National Phase of PCT/AU98/00173	16/03/98	Pending
Method and Apparatus for Controlling Communication	Cardscript	PP11420	9921568.3	UK National Phase of PCT/AU98/00173	16/03/98	Pending
Improved Computing System and Computing Device	Small Computer Interface	FP11651	AU99/00952	International PCT	02/11/99	Pending
Method and Apparatus For Programming Computing Devices	Post-Initiation Programming	FP11740	AU99/01010	International PCT	16/11/99	Pending

PATENT ASSIGNMENT

BETWEEN **CARDSOFT INTERNATIONAL PTY LTD ACN 075 945 265**
of Level 29, 459 Collins Street, Melbourne, VIC, 30005,
AUSTRALIA
(the "**Assignor**")

AND **CARDSOFT, INC.**
of One Waters Park Drive, Suite 104, San Mateo, CA 94403
UNITED STATES OF AMERICA
(the "**Assignee**")

RECITALS

- A. The Assignor is registered, or entitled to be registered, as the owner of the pending patent applications identified in the Schedule (collectively, the "**Patents**").
- B. The Assignor has agreed to assign the Patents to the Assignee.

ASSIGNMENT

- 1. The Assignor hereby assigns to the Assignee its entire interest in the Patents, including:
 - (a) its rights, if any, to sue for any infringement of the Patents which took place prior to the date of this Assignment, or which takes place prior to recordal of this Assignment;
 - (b) its rights, if any, to apply for and obtain other patents claiming priority from or otherwise based on the Patents.
- 2. A party to this Assignment must, upon the request of the other party, do all things reasonably desirable to give effect to clause 1, including by executing further documents.
- 3. The Assignor acknowledges receipt of good and valuable consideration from the Assignee.
- 4. This Assignment is effective on the date it is signed for the Assignor.

COUNTERPARTS

- 5. This Deed may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.

SCHEDULE

1) Communications Device with Card Facility

WO0180193 (Filing date 17 April 2001)

AU5016201 (Application date 17 April 2000)

2) Method and Apparatus for Programming Computing Devices

WO0029944 (Filing date 16 November 1999)

AU1535500 (Application date 16 November 1998)

3) Bankcard or Note with Display

WO0104832 (Filing date 12 July 2000)

AU5664900 (Application date 12 July 1999)

4) Improved Apparatus For Remote Payment Transactions (aka "Dual Interface")

WO0104851 (Filing date 12 July 2000)

AU5664900 (Application date 12 November 1997)

UK (9911089.2) (Application date 12 November 1997)

US (09/297991) (Application date 12 November 1997)

5) Improved computing system and computing device

AU1531400 (Application 2 November 1998)

WO0026803 (Filing date 2 November 1999)

6) A system and method for the provision of information within a predetermined locality


AU5664500 (Application date 8 July 1999)

WO0105094 (Filing date 10 July 2000)

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EXECUTED as a deed

SIGNED for CARDSOFT)
INTERNATIONAL PTY LTD by)


.....
Signature of director

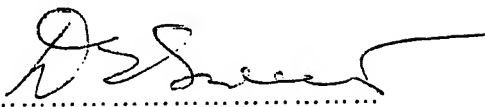
.....
Signature of 2nd director

Andrew Smyth.....
Name of director (print)

.....
Name of 2nd director

Date: 10 November 2005.....

SIGNED for Cardsoft, Inc. by)
)


.....
Signature of director

Donald E. Sweet.....
Name of director (print)

Date: 11/29/05.....